

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1601

IN THE MATTER OF:

Served September 3, 1976

Application of GARY PAYNE TRADING AS )  
HISTORIC TOURS for Certificate of )  
Public Convenience and Necessity to )  
Perform Special Operations )

Application No. 959

Docket No. 349

By Application No. 959, filed July 30, 1976, as amended August 20, 1976, Gary Payne trading as Historic Tours (Historic Tours) seeks a certificate of public convenience and necessity, pursuant to Title II, Article XII, Section 4(b) of the Compact, to perform special operations. Historic Tours seeks authority to transport passengers, over irregular routes, between points within the Metropolitan District located within the Commonwealth of Virginia and the District of Columbia.

Historic Tours proposes two separate transportation services. First, Historic Tours would transport persons from the Williamsburg Square development near Lorton, Virginia, to the District of Columbia, with stops within Washington, D. C., at L'Enfant Plaza Hotel, the intersection of First Street and Constitution Avenue, N. E., Department of Labor, and the intersection of Third Street and Constitution Avenue, and return. This transportation service would be rendered daily, Monday through Friday, and the per capita fare would be \$1.80 for a round-trip. The proposed transportation service would originate at Williamsburg Square at approximately 7:15 A. M., and would return from Washington, D. C., at approximately 5 P. M. Second, Historic Tours would provide three separate sightseeing tours to individual members of the general public. Historic Tours would render a combination morning and afternoon tour, which would include viewing and visiting museums, shrines and public buildings. This tour would be provided daily, Monday through Friday, and would commence between approximately 9:15 A. M. to 9:45 A. M. Historic Tours also would render a night tour, which would involve a riding tour of the Washington area including stops at the Library of Congress, Kennedy Center, Pentagon, and the Lincoln Memorial. This tour would be provided each day and would commence between approximately 7:15 P. M. to 8 P. M. Historic Tours finally would render a special personalized all-day tour, which would include viewing and visiting buildings, shrines, museums, Old Town Alexandria and Mount Vernon. This tour also would feature a boat cruise on the Potomac River. This tour would be provided only on Saturdays and Sundays and would commence between approximately 9:15 A. M. and 9:45 A. M. The following table sets forth the applicable fares and approximate length of each tour.

<u>Tour</u>	<u>Adult Fare</u>	<u>Child Fare</u>	<u>Time</u>
Combination	\$15.00	\$ 7.50	5 hours
Night	10.00	5.00	2-1/2-3 hours
Special	22.00	11.00	8 hours

Historic Tours would provide the proposed service in a twelve-passenger van.

Title II, Article XII, Section 4(b) of the Compact mandates that, whenever an application is made for a certificate of public convenience and necessity, the Commission shall issue a certificate to any qualified applicant therefor, "if it finds, after hearing held upon reasonable notice, that the applicant is fit, willing and able to perform such transportation properly and to conform to the provisions of this Act and the rules, regulations, and requirements of the Commission thereunder, and that such transportation is or will be required by the public convenience and necessity; otherwise, such application shall be denied." Pursuant to this mandate, the Commission shall schedule a public hearing to develop an appropriate record. Historic Tours shall be assessed an amount preliminarily estimated to be sufficient to cover the expenses which the Compact, Title II, Article XII, Section 19(a) requires the carrier to bear.

The Commission shall require Historic Tours to submit and be prepared to support with a competent witness separate statements projecting revenues and revenue deductions for a one-year period for each of the proposed transportation services set forth hereinbefore. Historic Tours shall be directed to file six (6) copies of the statements with the Commission and serve one copy on each party of record on or before Wednesday, September 22, 1976. Historic Tours shall be prepared to present evidence that public convenience and necessity require the proposed service.

Historic Tours has requested temporary authority to render the proposed services. Historic Tours states that temporary authority is urgent since its funds have been reduced as a result of the costs incurred in acquiring and insuring the vehicle to be used. Historic Tours also states that there are no commuter services of the type proposed in the area and that the times of the sightseeing tours are later than others and, therefore, are not in conflict with any other existing service in the area.

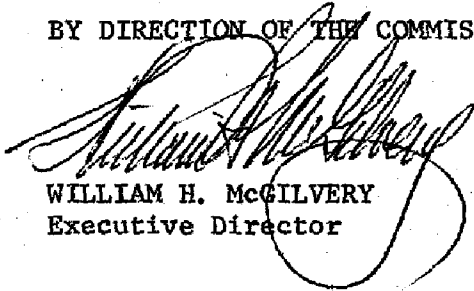
The Commission may, in its discretion and without hearing or other proceedings, authorize a carrier to provide a service for which there is an immediate and urgent need to a point or points or within a territory having no carrier service capable of meeting such need. See Compact, Title II, Article XII, Section 4(d)(3). The Commission does not find that the statements by Historic Tours justify the exercise of the discretionary power of the Commission. Accordingly, the temporary authority will not be granted without hearing or other proceedings. Furthermore, the Commission has hereinbefore

indicated that Application No. 959 will be scheduled for public hearing. There is no reason to convene two separate hearings for the purpose of developing a record with respect to the permanent authority application and the temporary authority application. The Commission thus shall permit Historic Tours to develop an evidentiary basis for decision upon the temporary authority request at the public hearing scheduled for Application No. 959.

THEREFORE, IT IS ORDERED:

1. That Application No. 959 of Gary Payne trading as Historic Tours be, and it is hereby, scheduled for public hearing to commence Monday, September 27, 1976, at 9:30 A. M., in the Hearing Room of the Commission, Room 314, 1625 I Street, N. W., Washington, D. C. 20006.
2. That Gary Payne trading as Historic Tours be, and it is hereby, required to publish once in a newspaper of general circulation in the Metropolitan District notice of the application and hearing in the form prescribed by the staff of the Commission no later than Tuesday, September 7, 1976, and present at the hearing a certificate of publication from the selected newspaper.
3. That six (6) copies, the originals to be submitted at the hearing, of the statements required hereinbefore be filed by Gary Payne trading as Historic Tours with the Commission and one copy served on each party of record on or before Wednesday, September 22, 1976.
4. That any person desiring to protest shall file a protest in accordance with Commission Rule 14, or any person desiring to be heard on this matter shall notify the Commission, in writing, on or before Monday, September 20, 1976, and shall mail a copy of such protest or such notice to counsel of record for Gary Payne trading as Historic Tours, Ken McFarlane Smith, Esquire, 2007 North Fifteenth Street, Post Office Box 749, Arlington, Virginia 22216.
5. That Gary Payne trading as Historic Tours be, and it is hereby, assessed \$200 pursuant to the provisions of the Compact, Title II, Article XII, Section 19, and directed to deliver said amount to the office of the Commission, Room 316, 1625 I Street, N. W., Washington, D. C. 20006, on or before Wednesday, September 22, 1976.

BY DIRECTION OF THE COMMISSION:



WILLIAM H. MCGILVER  
Executive Director